

Agenda Item	
	Pledge of Allegiance
A-1	<p>Wishing to be heard during the Open Comment Period was Brian Rothwell, 1425 Second Street S.E. Mr. Rothwell said that he and his neighbors are concerned about the drug trafficking and problems in their neighborhood. There are tenants in rental housing that are openly using drugs, a girl was walking down the street with a shotgun one evening, and they are concerned for their safety and their property. Mr. Rothwell said that the rental properties are not licensed with the City. He has been trying to work with the Police Department but offenders are still there. Mr. Rothwell asked that the curfew laws be enforced and changed if necessary.</p> <p>President Hanson asked the City Administrator to follow-up with the various departments concerned and contact Mr. Rothwell within a week.</p>
B-1	<p>President Dennis Hanson called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Amy Blenker, Pat Carr, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki. Absent: None. Mayor Ardell F. Brede was not present.</p>
D-1-24	<p>Councilmembers McConnell moved, Nowicki seconded, to approve the following consent agenda items.</p>
D-2	<p>Adopted Resolution No. 251-05 supporting the Regional Public Safety Training Facility State Bonding request as the Number One priority for the City of Rochester.</p>
D-3	<p>Adopted Resolution No. 252-05 supporting the construction of a Southeast Minnesota Bioscience Development Center State Bonding request as the Number Two priority of the City of Rochester.</p>
D-4	<p>Adopted Resolution No. 253-05 supporting the Phase II Expansion of the National Volleyball Center State Bonding request as the Number Three priority of the City of Rochester.</p>
D-5	<p>Approved the following licenses and miscellaneous activities:</p> <p><u>On-Sale 3.2% Malt Liquor – Temporary</u> Olmsted County Fair Board – Olmsted County Fair – August 1 to 7, 2005.</p> <p><u>Dance – Temporary</u> Ricar Entertainment – Graham Arena – July 9, 2005.</p> <p><u>Gambling – Premise Permit</u> Minnesota Deer Hunters Association at Andy's Liquor, Inc., 1201 South Broadway.</p> <p><u>Sewer & Drains</u> Michael W. Hinrichs, Jr. DBA M & M Construction & Cleaning, Inc., Eyota</p>

7400

Agenda
ItemSidewalks – Cement

Michael W. Hinrichs, Jr. DBA M & M Construction & Cleaning, Inc. , Eyota

Signs

Signs Unlimited, Hamel, Minnesota

Sound AmplificationBoomer's Lounge, LLC, 3737 40th Avenue NW – 2nd Anniversary Party –
July 16, 2005 – 6:30 to 11 PMCity of Life Outreach Center – Silver Lake Soccer Field – Fundraiser for
Police and Fire – July 16, 2005 – 10 AM to 5 PM

Olmsted County Fair Board – Olmsted County Fair – August 1 to 7, 2005.

SE Mn Alliance of Peacemakers – Pastors for Peace Rally at East Silver
Lake Shelter – July 8, 2005 – 4 to 9 PM.Westfire Grill, 2043 Superior Drive NW – Outside Celebration for 4th of July
– July 1, 2005 – 7 to 11 PM.The Break Room, 1635 Highway 52 North – Outdoor Celebration – June 25,
2005 – 6 to 11 PM.Hanger Bar & Grill, 7386 Airport Viw Drive SW – Hanger Fest Outdoors –
July 23, August 27 and September 10, 2005 – 2 PM to 12:30 AMHome Federal Savings Bank – Company Picnic at Quarry Hill Park – August
27, 2005 – 12 Noon to 8 PM.Tiffany Poffenberger/Cullen Houser, 2417 Pearl Court SE – Wedding
Reception – July 23, 2005 – 6 to 11 PM.Gay Lesbian Community Services – Rochester Pridefest at Central Park –
July 16, 2005 – 8 AM to 4 PM.Miscellaneous

Rochester Track Club – Women's Running Race – July 23, 2005

Olmsted Medical Center – Stride for Fitness 5K/10K Race – September 17,
2005D-6 Approved Accounts Payable in the amount of \$4,682,339.24 and Investment
Purchases of \$4,657,055.06.D-7 Adopted Resolution No. 254-05 closing completed improvement projects and
transferring funds pursuant to City Charter, Section 11.10 or to active funds.D-8 Approved awarding the contract for 2005 Season Supply of Asphalt Material to
SemMaterials and its affiliate Flint Hill Resources, LP. The contract was previously
awarded to Koch Materials Company; SemMaterials purchased Koch Materials
Company effective May 31, 2005.

D-9 See at end of D Items.

D-10 Adopted Resolution Nos. 255-05, 256-05 and 257-05 approving the Feasibility
Report and ordering Project and Assessment hearings on July 18, 2005, for
Project No. M4-31 (J-7227) "Downtown Alley Improvements for Alley behind the
Galleria between 2nd Street SW and the Peace Plaza".

Agenda Item	
D-11	Adopted Resolution Nos. 258-05, 259-05 and 260-05 approving the Feasibility Report and ordering Project and Assessment hearings on July 18, 2005, for Project No. M2-36 (J-7209) "Downtown Alley Improvements for Alleys East of Broadway between Center Street and Third Street SE".
D-12	Referred Official Street Map No. 14, designating the needed right of way for the proposed 65 th Street Interchange, to the Planning Commission for processing.
D-13	Adopted Resolution No. 261-05 approving a contract with the Minnesota Conservation Corps (MCC) for watershed stabilization work in an amount not to exceed \$6,600.00.
D-14	Adopted Resolution No. 262-05 approving the contract with Pyfferoen Farms for mowing of the former landfill at least once per year with the contract mower taking the resultant hay crop and no charge to the City.
D-15	Adopted Resolution No. 263-05 approving the contract between Malacological Consultants for a mussel survey at the three sewer crossings of the South Fork of the Zumbro River in the amount of \$13,724.57.
D-16	Adopted Resolution No. 264-05 approving a five-year contract for vegetative management of public storm water ponds and drainage ways in the amount of \$164,365.82.
D-17	Amend City Ordinance 134.23 related to the restricting the parking of certain vehicles in City owned parking lots.
D-18	Adopted Resolution No. 265-05 authorizing staff to purchase 1.0 acres from Bouquet Builders, Inc. for \$17,000 to be used as a part of the City's Cascade Lake project.
D-19	Adopted Resolution No. 266-05 awarding the contract for Project No. M5-22 (J-6531) "Revision of Outlet Structure Pond 128 in Badger Ridge Subdivision" to Blitz Construction in the amount of \$8,938.00.
D-20	Adopted Resolution No. 267-05 approving execution of the Development Agreement with Minnesota Bible College for Lot 1, Block 1, Minnesota Bible College Addition.
D-21	Adopted Resolution No. 268-05 approving the execution of a City/Owner Contract with Menard, Inc. and Road Constructors, Inc. for Project No. J-5097 "Watermain & Hydrant(s) to Serve the Menards South Expansion (Phase 1)".
D-22	Adopted Resolution No. 269-05 approving a Development Agreement with Arnold J. Bomgaars and Rebecca A. Bomgaars, for Traders Point.
D-23	Adopted Resolution No. 270-05 approving the Assessment Agreement for Ty Truax to provide greater flexibility for payments under specific terms of a contribution agreement.

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER - MINNEAPOLIS
Regular Adjourned Meeting No. 16 - June 20, 2005

7402

Agenda Item	
D-24	Adopted Resolution No. 271-05 approving an agreement with the County for setting charges billed for leachate received by the Water Reclamation Plant and grit hauled from the plant to the Kalmar Landfill.
D-25	Adopted Resolution No. 272-05 amending the contract with Walker Parking Consultants of Minneapolis to prepare plans and specifications for concrete and traffic coating repairs and construction administration at Center Street Parking Ramp at a cost of up to \$30,470, and authorize the City Administrator to amend the contract for an additional amount of up to \$34,495 for preparation of plans and specifications and construction administration of electrical and mechanical repairs at Center Street Ramp upon a decision regarding expansion of the Center Street Ramp.
D-26	Adopted Resolution No. 273-05 authorizing staff to complete the release of the easement over a portion of property lying in the River Court Subdivision as per conditions as noted on the Request for Council Action dated June 20, 2005.
D-27	See at end of D Items. Ayes (7), Nays (0). Motion carried.
D-9	Councilmember Means asked for clarification regarding the shared half-time program for Police Officers. She was told by administration that the program was on a trial basis but would allow officers to work and fulfill perhaps family obligations. It was noted that the number of positions on the Police Department would not increase, just two individuals filling the position instead of one. Councilmembers Nowicki moved, McConnell seconded, to adopt Resolution No. 274-05 approving the Memorandum of Understanding between the City of Rochester and the Law Enforcement Labor Services, Inc. for allowing a trial half-time (hours) program for Sworn Police Officers. Ayes (7), Nays (0). Motion carried.
D-27	Councilmember Nowicki noted that the Public Works Department has been working a long time to find a solution to traffic problems on Northern Valley Drive N.E. They have had to design and re-design standards for various reasons including the Fire Department needs. Councilmember Nowicki moved, Means seconded, to adopt Resolution No. 275-05 authorizing the City Clerk to advertise for bids for Project No. 8901-2005 (J-9364) "Construction of Traffic Calming Measures on Northern Valley Drive N.E.". Ayes (7), Nays (0). Motion carried.
E-1	A Continued Hearing on Preliminary Plat #05-12 by Mills Properties, Inc. and Rochester Petroleum Equipment, Inc. located south of 48 th Street S.E. between TH 63 and St. Bridget Road. The applicant requested that the hearing be continued to allow time for the Development Agreement terms to be completed.

Agenda
Item

E-2

Councilmembers Nowicki moved, Carr seconded, to continue the hearing to July 6, 2005. Ayes (7), Nays (0). Motion carried.

A Continued Hearing on Vacation Petition #05-02 by Crossroads College to vacate utility easements in Lot 1, Block 1, Minnesota Bible College Addition.

Having no one wishing to be heard, President Hanson closed the hearing.

Councilmembers Marcoux moved, Nowicki seconded, to adopt Resolution No. 276-05 approving Vacation Petition #05-02 by Crossroads College with one condition. Ayes (7), Nays (0). Motion carried.

E-3

A Hearing on Land Use Amendment Petition #05-01 by Quinstar to designate land from low density residential to commercial on property located along the east side of CSAH 1, along the north side of TH52 and south of 28th Street SE.

Wishing to be heard was Mark Welch, GGG Engineering, Chatfield, representing the developer. He said that the location of the access to CSAH 1 at the present time was close to the actual location shown on the plat originally. Years ago through the general development plan process, the request was that the access be moved further to the north. That was complied with. Last year Olmsted County reconstructed CSAH 1. Leitzen's had purchased property with access to CSAH 1 further to the south, the original location of the access for the Quinstar project. Quinstar was asked to move the access to the south. After discussions with the City, the County and Leitzen's, an agreement for the location of the intersection with a traffic signal in the future. Quinstar is looking at more commercial because of a signalized intersection. The traffic impact report shows that more commercial is feasible. Neighborhood meetings have been held. The greatest concern was commercial traffic using the residential roads. The layout for the commercial property will stop traffic from traveling into the residential areas. Any buffers that are required will be placed between the residential and commercial properties.

Wishing to be heard was Maren Johnson, 2615 23rd Avenue S.E. She noted that on the May 19, 2005, Planning Commission meeting there was a question raised to the Commission on the use of the commercial property; she saw no response to the question. Ms. Johnson said that the corridor going south into Stewartville has a strong area of commercial development. What would prevent the commercial area to be drawn into a more rural area as it is situated along the highway? This question does not seem to be addressed for the Quinstar project commercial designation. Ms. Johnson said that, as a homeowner along 23rd Avenue, the May meeting brought up some concern of the traffic along some of the local access area; 23rd Avenue would be one more open to local traffic. The road is very narrow and only one side is curbed. She asked for additional traffic information on the impact to the local streets in the area.

Brent Svenby, Planning Department, said that the staff report does not support the move to more commercial designation by Quinstar. There would be only one main access for 66 acres of commercial onto County Road 1 which would be inadequate. There are two additional streets but they are through residential neighborhoods.

Agenda
Item

Having no one further wishing to be heard, President Hanson closed the meeting.

Councilmember McConnell asked Mark Welch of GGG to answer questions posed by Mrs. Johnson. Mr. Welch said that the one big concern is the one access onto County Road 1. There is no frontage road on this property. There is potential that perhaps in the future a second access could be developed. The development should force the traffic back to the county road with the signalized intersection rather than through the residential neighborhoods. There is currently no room on the Quinstar property to provide that second access.

Answering questions from Councilmembers Blenker and Carr, Brent Svenby, Planning Department, told Councilmember Blenker the possible future signalized intersection was a result of the proposed commercial development on both Quinstar and Leitzen properties. Mr. Svenby responded to Councilmember Carr that the zoning district could not happen until such time as the property is annexed to the City.

Councilmember Carr said that the developer has a long way to proceed before any development could happen. By approving the Land Use Plan Amendment, the developer has an option to open this area up.

Councilmember Carr moved, Nowicki seconded, to approve Land Use Amendment Petition #05-01 by Quinstar based on the lack of detriment at this point and directed the City Attorney to prepare Findings of Fact, Conclusions of Law and Order. Ayes (2), Nays (4), Abstain (1). Motion failed. Councilmembers Blenker, Marcoux, McConnell, and Means voted nay. President Hanson abstained.

E-4

A Hearing on Amendment to General Development Plan #136 by Quinstar on property located along the east side of CSAH 1, along the north side of TH52 and south of 28th Street SE.

Wishing to be heard was Mark Welch, GGG Engineering, Chatfield, representing the developer. Mr. Welch asked what amount of acreage would the Council like to see for commercial development for the property. President Hanson suggested that Mr. Welch meet with Planning staff to develop options for the Council to consider.

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmembers Marcoux moved, McConnell seconded, to deny the Amendment to General Development Plan #136 by Quinstar based on staff findings and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (6), Nays (0), Abstain (1). Motion carried. President Hanson abstained.

E-5

A Hearing on General Development Plan #256 to be known as Echo Ridge, by Premier Development Group, LLC on property located east of 18th Avenue SE, and south of Greystone Lane SW.

Agenda
Item

Wishing to be heard was Jeff Broberg, McGhie & Betts Environmental Services, representing the Greystone Subdivision neighbors. Mr. Broberg said that one of the important things in the community are the application standards; i.e., design, submittal, and review so that the decision makers have good information to make decisions. Mr. Broberg said that he found the application deficient in nine areas and is asking the Council to refer the matter back to the Planning Commission. He said that the topography in the report says 56 feet, it's 86 feet. A bluff going down into a stream isn't appropriately addressed. The soils report submitted doesn't show a map or locations. Wetlands have not been identified prior to the preliminary plat for springs and seeps on the Decorah Edge. There is a one-quarter acre pond for storm water management but one-quarter of the site has no treatment shown and runs the water into the ravine that already suffers from soil erosion. There was no discussion in the Planning Commission that over ten acres of forest will be stripped off the site to fulfill their substantial land alteration. In regards to traffic, the revised plan has taken out the second access and the current plan would far exceed the 1200 trips per day set by the City. Adding more than 39 homes would exceed that by far. One of the cul-de-sacs on the site is 2800 feet from the access point. Mr. Broberg again asked that the Council return the matter to the staff and Planning Commission to correct the deficiencies.

Brent Svenby, Planning Department, said that the information submitted was similar to those as submitted for other general development plans (GDP) and preliminary plats. The submitted information met the checklist for GDPs and plats.

Wishing to be heard was Jeff Broberg, McGhie & Betts Environmental Services, representing the neighbors next to Echo Ridge. The Council has before them this evening both the GDP and the preliminary plat. The only thing lacking on the preliminary plat, before grading can occur, is Public Works approval. There are substantial issues, even with the revision, that are unclear. The development started with two access points because the developer crossed the daily trip threshold. In the past, the Planning staff has explained to the Planning Commission that two accesses are needed if you have 75 lots. There will be over 120 lots on a single access creating a traffic impact problems for the people living in that area. That has been a long-standing standard in the City of Rochester. If the Council does not approve sending the application back, it should be rejected on that standard.

Brent Svenby, Planning Department, stated that Condition #7 addresses the need for the additional access.

In response to questions posed by Councilmember Blenker, Jeff Broberg said the trees, to be cut to satisfy the grading plan have a roll in buffering the rainfall and helps to prevent any runoff problems. There are areas of the development that have no storm water treatment. Storm water runs down the hill into a rocky area and into the Springbrook Valley development. Mr. Broberg also noted that developments surrounding this proposed development have large outlot open spaces so that forest management plans can be done. He stated this area deserves a corridor of trees up the stream valley to help control the storm water and to preserve aesthetics and wildlife.

7406

Agenda
Item

Wishing to be heard was Richard Hefti, Bonestroo, Rosene, Anderlik and Associates, representing the developer. Mr. Hefti said that they did have soil borings taken. The development is above the Decorah Edge rather than in it. He said that the electronic overlay shows some hydric soils on the sidehills. However, the soils are not on the sidehills but show up in the creek going down the hill as confirmed by their soil experts. The storm water management is a part of the grading plan using a storm water pond and the interior of two cul-de-sacs for "island rain gardens". He said that grading the Echo Ridge land will help the Greystone area because there is runoff currently draining off fields into backyards. Mr. Hefti said their plan originally showed a second access across from Fieldstone on 18th Avenue S.W.. In meeting with Public Works, there was some concern that there would be, over time, settlement of the embankment supporting the street.

Wishing to be heard was Jim Norman, 5701 County Road 8 S.W., one of the three developers of Greystone. He expressed concern that on the south edge of the Echo Ridge development there is a creek flowing to the east. When the sanitary sewer was installed for Greystone on the north side of the Mills Fleet Farm Store, the excavating equipment could not stay above ground because of the marshy soils. They had to wait until winter until the ground froze to do the work. North of 37th Street S.W., water flows out of the hill west of the storm water storage area. Greystone started with 80 acres, 20 acres of that was too steep in grades and slopes to develop. That particular 20 acres is now parkland along with one acre of level land. Mr. Norman said that there should be a buffer along the south edge of the creek and some of the land held as open area.

Wishing to be heard was Gene Peters, 1320 Wicklow Lane S.W. Mr. Peters noted that he was speaking on behalf of the neighbors in Greystone. He said that the preliminary plat is the nuts and bolts of the project and there are a lot of concerns about environmental issues. He said that they need to meet with the developers and talk about some of the issues; traffic is one, currently 972 trips per day from 81 lots to be built upon. The Echo Ridge development has 75 lots making a total of 1872 trips per day for a single access. Mr. Peters said that the number of cul-de-sacs in this development is totaling four. This is extremely high for a 30 acre site. An Environmental Assessment Worksheet (EAW) petition has been submitted to the State and the City. The State has been asked to require an EAW for this site. The issues addressed in the EAW petition are: how to handle erosion on the steep slopes, potential endangered habitat, wetland delineation and Decorah Edge, the fen downstream, the removal of trees from the slopes and how the storm water plan will be put together. This is the third submittal of the GDP during the past three weeks making it difficult for the neighborhood to comment on it. The neighborhood has asked for a second meeting with the developer because with the loss of the second access, the lots have been reconfigured. He asked the Council to table the GDP decision and deny the Substantial Land Alteration.

Brent Svenby, Planning Department, said that the developer was asked by the Planning Commission to meet with the Public Works Department on the secondary access thus initiating another change to the GDP.

Agenda
Item

Wishing to be heard was Jerald Rutgers, 1705 Greystone Lane S.W., across the street from the new development. He was representing the Greystone neighborhood. When the residents bought into Greystone, it was with the feeling that they were almost a rural setting within the City. The neighbors did know that at one time in the future the farm would be developed. It was with surprise that the application for the development was proposed and did not give the neighbors time to research the issues. He said that it could not be envisioned the 75 houses that will be in the field next to Greystone. The proposed development does not fit into the City and in the way Greystone was developed; an oddity abutted next to the large lot developments. He said that the density of homes next to them is a very big concern as well as the number of trips that will be on the one access. He asked the Council to look at the long term benefit and happiness to the neighborhood and not just the rules. He asked the Council to table the issue until the neighbors can meet with the developer again.

Wishing to be heard was Scott O'Brien, Premier Development Group, developer, Eden Prairie. He noted that they were ready to construct the second access until staff asked them to change. The outstanding topographical issues will be addressed through the grading plan as it does with any other developer. He asked that since they have met all requirements of the zoning ordinance and staff recommendations, the item not be tabled. Mr. O'Brien said that they met with the residents of Greystone to hear the concerns of the neighbors. He said that he didn't hear any comments for a while and then it became an environmental issue. Mr. O'Brien said that the City asked for a park and they are willing to give a park. In regard to the density issue, several of the lot widths were increased; they are larger than required by City ordinance out of respect for the neighbors.

President Hanson asked Mr. O'Brien if it was a better alternative to reduce the number of lots so that a variance from a second access would not have to be requested, or have to suffer a financial hardship because he was unable to sell the lots until there was a second access. Mr. O'Brien deferred the question to Richard Hefti, Bonestroo, Rosene, Anderlik and Associates. Richard Freese, Public Works Director, cautioned the council that it is the total number of trips and not the number of lots that determines when a second access is needed. If all the development area that uses 32nd Avenue would generate only eight trips per lot, there would be no variance required.

Councilmember Blenker asked Mr. O'Brien if he has any plans for a buffer along the lots of Greystone or would be open to the opportunity to do something like that. Mr. O'Brien said that it would be open for discussion. Councilmember Blenker said she was concerned, and would encourage, a further meeting with the neighbors. Brent Svenby, Planning Department, pointed out that there is no buffer required for this GDP.

Councilmembers encouraged Mr. O'Brien to meet again with the neighborhood to work on some transition and communication with the issues. Councilmember Means asked Mr. O'Brien if he was in agreement with the seven conditions. Mr. O'Brien answered yes.

Agenda
Item

Wishing to be heard was Jim Norman, 5701 County Road 8 S.W. He said that one of the things that makes the Greystone property unique is that they had to provide two secondary streets through the property. The property owner on the west side has never dedicated his half of that street, therefore, it could not be used without his approval. The other outlet is Barony Woods at the end of Wicklow straight east. They had considered purchasing the property and run the road east to the frontage road into 33rd Street, Southtowne Heights. Soil conditions would not permit to do that feasibility. This limits the development to have all access back onto 18th Avenue S.W.

Wishing to be heard was Byron Scott, 1711 32nd Street S.W. He said that he lives in the first house that will take the brunt of all the traffic. Recently the State Patrol is pulling over subcontractors coming into the development because they are overloaded. How are you going to control that? With all the homes that are planned, the contractors are coming in and destroying the roads.

Mike Nigbur, Public Works Department, said that there are weight limits on roads but the contractors have the legal right to pass over public streets. If the streets are damaged by them during the construction phase, they will need to make the necessary repairs.

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmembers Means moved, Carr seconded, to approve General Development Plan #256 to be known as Echo Ridge, by Premier Development Group, LLC with seven conditions and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order consistent with the staff's proposed findings. Discussion.

President Hanson noted that he would not support the development because of the lack of secondary access.

Ayes (6), Nays (1). Motion carried. President Hanson voted nay.

E-6

A Hearing on Land Subdivision Permit (Preliminary Plat) #05-16 to be known as Echo Ridge, by Premier Development Group, LLC and including a Substantial Land Alteration Permit for property located east of 18th Avenue SE, and south of Greystone Lane SW.

Wishing to be heard was Jeff Broberg, McGhie & Betts Environmental Services, representing the neighbors. Mr. Broberg asked that the item be tabled until outstanding issues can be resolved.

Wishing to be heard was Scott O'Brien, Premier Development Group, developer, Eden Prairie. Mr. O'Brien asked that the item not be tabled. He said that he is willing to work with the neighbors on the issues. He agreed with the ten conditions.

Wishing to be heard was Jerald Rutgers, 1705 Greystone Lane S.W. Mr. Rutgers encouraged the Council to table the matter.

Agenda
Item

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmembers Marcoux moved, Blenker seconded, to table to July 6, 2005 the Land Subdivision Permit (Preliminary Plat) #05-16 to be known as Echo Ridge, by Premier Development Group, LLC and including a Substantial Land Alteration Permit. Discussion to allow the developer and neighbors to meet on the Substantial Land Alteration issue. Ayes (2), Nays (5). Motion failed. Councilmembers Carr, McConnell, Means, Nowicki and President Hanson voted nay.

Councilmembers McConnell moved, Means seconded, to adopt Resolution No. 277-05 approving Land Subdivision Permit (Preliminary Plat) #05-16 to be known as Echo Ridge, by Premier Development Group, LLC and including a Substantial Land Alteration Permit, with twelve conditions, requiring the developer to meet no less than two times with the neighbors and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (5), Nays (2). Motion carried. Councilmembers Blenker and Marcoux voted nay.

E-14

A Hearing on Type III, Phase II Restricted Development Preliminary Plat #05-11 by Lisa Pearce and a request for waiver of the Final Plan Review for a business located along the south side of 21st Street SE, east of TH63 and west of Third Avenue SE.

Wishing to be heard was Lisa Pearce, 210 21st Street S.E., the applicant. She noted that a letter against her business request had been sent to the City saying that a lot of the neighbors were against the business. She has talked with all the neighbors and they are all in agreement to support her business. She noted that a rescue dog had bitten a child. The dog was removed. No aggressive dogs are allowed. The property is adequately and safety fenced. The Planning Department has recommended a condition for a sight obscuring fence. The neighbors have said that they don't want a sight obscuring fence on the street side because they enjoy watching the animals. Ms. Pearce said that the Planning Department said a six foot fence was necessary. She asked if she could put an electrified wire, inside the fence line, on the top and the bottom of the four-foot chain-link fence that she now has. She currently has six animals.

Wishing to be heard was Mark Jeanson, 215 21st Street S.E. Ms. Jeanson said that Ms. Pearce brought to his attention the letter that had been received opposing the business. He said that the letter does not represent all the neighbors. Any problems that arisen have been handled immediately. He said that he has young children and was at first concerned but has seen no issue with the pets. He would support the waiver to support the four-foot fence with electrified wire on the inside. They would like to see a clear air-flow through the area; the area is wet and the homes have no basements because of it.

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmembers Blenker moved, Marcoux seconded, to adopt Resolution No. 278-05 approving Restricted Development Preliminary Plat #05-11 by Lisa Pearce with

Agenda
Item

E-7

five conditions amending Condition #2 to say: "The animals be kept indoors at all times unless the outdoor exercise runs area is enclosed on four sides by a fence or wall at least four feet in height, and that animals are kept indoors from 9:00 PM to 7:00 AM", and amend Condition #4 to say: "The number of animals (not including the owner's six pets) shall be limited not to exceed eight at one time" and to waive the final plan. Ayes (7), Nays (0). Motion carried.

A Hearing on Land Use Amendment #05-03 by Roger Carlson/West 19 Development amending the designation from low density residential to commercial on property located east of 50th Avenue NW, along the north side of 19th Street NW., and A Hearing on Zone Change Petition #05-04 by Roger Carlsen/West 19 Development to change the zoning of the property from R-1 to B-4 on property located east of 50th Avenue NW, along the north side of 19th Street NW., and A Hearing on Zone Change Petition #05-03 by Roger Carlsen to amend the Floodway and Flood Prone boundaries to correspond with the FEMA approved Letter of Map Revision on property located east of 50th Avenue NW, along the north side of 19th Street NW., and A Hearing on Amendment to General Development Plan #211 known as West 19 Development by Roger Carlsen located east of 50th Avenue NW north of 19th Street NW and south of the Badger Hills Development.

All testimony taken applies to Items E-7, E-8, E-9, and E-10.

Wishing to be heard was Kristi Clarke, McGhie & Betts, representing the developer. Ms. Clarke said that the floodway redesignation is regulated by the flood control reservoir pipe outlet. A 60-foot wide channel for the drainage will be built. It is the pre-KR6 design dam flow. If the dam didn't exist and there was a backup, a 100-year flood would still be managed. A letter from Gary Neumann, Assistant City Administrator, notes that the emergency spillway would come into affect at a greater than 500-year flood.

Gary Neumann, Assistant City Administrator, said that the reservoir holds spring snow melt. The Corps of Engineers recommended that the original floodway be kept. He suggested that for other reservoirs the City be very cautious in amending the original floodways.

Wishing to be heard was Kristi Clarke, McGhie & Betts, said that the General Development Plan was approved on July 21, 2003. Six acres have now been added. She noted that they are in agreement with the six conditions on the General Development Plan.

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 279-05 approving Land Use Amendment #05-03 by Roger Carlson/West 19 Development with staff findings and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order consistent with the staff's proposed findings. Ayes (7), Nays (0). Motion carried.

Agenda Item	
E-8	<p>A Hearing on Zone Change Petition #05-04 by Roger Carlsen/West 19 Development to change the zoning of the property from R-1 to B-4 on property located east of 50th Avenue NW, along the north side of 19th Street NW.</p> <p>Testimony taken in Item E-7 applies to this hearing.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Nowicki moved, McConnell seconded, to approve Zone Change Petition #05-04 by Roger Carlsen/West 19 Development and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-9	<p>A Hearing on Zone Change Petition #05-03 by Roger Carlsen to amend the Floodway and Flood Prone boundaries to correspond with the FEMA approved Letter of Map Revision on property located east of 50th Avenue NW, along the north side of 19th Street NW.</p> <p>Testimony provided in Item E-7 applies to this hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to approve Zone Change Petition #05-03 by Roger Carlsen and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-10	<p>A Hearing on Amendment to General Development Plan #211 known as West 19 Development by Roger Carlsen located east of 50th Avenue NW, north of 19th Street NW and south of the Badger Hills Development.</p> <p>Testimony provided in Item E-7 applies to this hearing.</p> <p>Councilmembers McConnell moved, Marcoux seconded, to approve Amendment to General Development Plan #211 known as West 19 Development by Roger Carlsen with six conditions and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law and Order consistent with the staff's proposed findings. Ayes (7), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Amendment to Special District #9 known as Prairie Crossing by Prairie Crossing LLC to amend the approved Special District located along the east side of TH52, north of 65th Street NW and Overland Drive NW and west of Bandel Hills Subdivision.</p> <p>All testimony taken applies to Items E-11, 12 and 13.</p> <p>Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the developer, Jerry Nelson. The original General Development Plan was approved in April of 2002. The Preliminary Plat for the east portion was approved in September of 2002. He said that the biggest change that has occurred is in the commercial area and the requirement of location of the frontage road. In the original plan, a street was required from 65th Street to 75th Street and to be a residential street.</p>

Agenda
Item

The change, as required by the State of Minnesota, is not only the alignment, style but speed, 45 mph, and an 80-foot right of way. The State also took a tract for a future storm pond that may or may not be used. The original plat showed a basic residential development with a large stand (approximately 1200 trees in a 9-acre area) of oak trees. The original design showed commercial development closer to a narrower street. Now we will be more moving to a more conventional commercial style of development. A civic block has been eliminated and a town square has been eliminated and has been replaced it with a one-acre lot. Mr. Masterpole said that it was their original intent to amend the special district but Planning Staff suggested that a traditional zoning district be approved. The problem was the timing of the process of asking for traditional B-4 and R-3 zoning. Phil Wheeler, Planning Department Director, wrote a memo, which the developer is in agreement with, allowing the development to proceed on a temporary basis. Tonight's meeting will also approve an amendment to the land use and zoning to move to a conventional style of development. Mr. Masterpole said that there is an issue with the smaller park dedication. Half of the parkland needs to be 4 percent with no trees on the land. The woodland park did not meet the criteria. The Park Department asked for one acre of flat land to put a tot park. An area between the single family area and commercial area was chosen. The location of the tot park caused a disagreement between the developer and the Park Department. The developer felt it caused an excellent buffer between the residential and the commercial while the Park Department felt it wouldn't be an appropriate setting, behind commercial development, for a tot park. Mr. Masterpole then talked about the conditions associated with the General Development Plan. He said that it was his understanding that there would be a trail in the right of way of Overland Drive. Condition #4 referred to the approval of the tot park by the Park Department and the approval of the location. The second sentence of the condition refers to street and infrastructure costs along the woodland paid by the applicant. Mr. Masterpole said that it was his understanding that this would be a point negotiated in the development agreement. One of the principles in community design is to make natural amenities as accessible as possible. He said that they have done this with the street design and it becomes a park for the entire neighborhood. Condition #8 should be removed entirely. Mr. Masterpole then spoke to the Preliminary Plat conditions noting that Condition #2 is the same issue with the park placement and Condition #7 mirrors Condition #8 in the GDP and should be eliminated. He asked for the approval of the Substantial Land Alteration permit to allow soil to be moved within the site. There will be no soil imported or exported on the development. Mr. Masterpole asked the Council to reverse the Planning Commission's recommendation for denial and approve the development. He noted again that this is only on a temporary basis to allow the land use and zoning changes to move forward.

Denny Stotz, Park Department, said that he felt that there should be a better area than the back of commercial property. There are 53 acres of residential land that a tot park could be placed in as a better option.

Having no one further wishing to be heard, President Hanson closed the hearing. Councilmembers Carr moved, McConnell seconded, to approve the Amendment to Special District #9 known as Prairie Crossing by Prairie Crossing LLC. Ayes (7),

Agenda Item	
E-12	<p data-bbox="358 344 688 380">Nays (0). Motion carried.</p> <p data-bbox="358 413 1427 546">A Hearing on Amendment to General Development Plan #180 also to be known as Prairie Crossing by Prairie Crossing LLC and Approval of a Substantial Land Alteration Permit on property located along the east side of TH52, north of 65th Street NW and Overland Drive NW and west of Bandel Hills Subdivision.</p> <p data-bbox="358 579 1078 615">Testimony provided in Item E-11 applies to this hearing.</p> <p data-bbox="358 648 1401 714">Brent Svenby, Planning Department, noted that Condition #8 should be removed from the conditions required.</p> <p data-bbox="358 747 1352 812">Councilmembers discussed the location of the tot lot between residential and commercial as long as it is buffered from the commercial.</p> <p data-bbox="358 846 1427 1249">Denny Stotz, Park Department, said that the Council needs to decide if they are comfortable with a tot lot in the back of commercial not knowing what the commercial is going to be. Mr. Stotz also raised the question, if the buffer is done, is the land going to come off the commercial area or the park area. Mr. Stotz also said that there is 1100 feet of street frontage on the woodland park. That was discussed at the pre-development meeting on April 18, 2001. At that meeting it was agreed it would be a developer's cost. The Park Department would never pay for that amount of street frontage. If the developer is not going to pay for it, the street should be moved. In 1991 the Council adopted policy that the City will only pay for street frontage on neighborhood parks. On April 15, 2002, you determined that this was not a neighborhood park but a woodland park. By policy, one-half of the street frontage would be paid by the Park Department for the tot lot.</p> <p data-bbox="358 1283 1435 1451">Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the developer. He noted that there is a ten-foot elevation change from the tot lot and commercial. Mr. Masterpole said that, based on the density of the development, they would only be required to have 4.5 acres of parkland. There is a 9.3 woodland park and a 1 acres tot lot which far exceeds the requirements.</p> <p data-bbox="358 1484 1435 1652">Wishing to be heard was Jerry Nelson, Developer of Prairie Crossing. Mr. Nelson said that he is giving double the park dedication required. There are spots in the woodland that could be cleared for a tot lot. The woodland area could also be used for residential development. He has wanted to keep the oak trees but now is being told that he has to have another one acre for a tot lot.</p> <p data-bbox="358 1686 1408 1785">Councilmember Blenker said that she doesn't see a problem with the tot lot being placed next to commercial development. It would be centrally located at this site and with a buffer would be alright.</p> <p data-bbox="358 1818 1401 1982">Richard Freese, Public Works Director, said that the costs abutting the woodland park where agreed to in 2002 by the developer. Mr. Nelson said that a lot has changed since 2002 and that is why they are coming back to the Council. Mr. Nelson said that they still want to have the Park Department pay for the frontage. Mr. Freese said that the public record shows that a compromise was reached</p>

Agenda
Item

between the Council and the developer that the developer pays for the frontage. Mr. Nelson said that now he would rather put housing into the wooded area.

Councilmember Carr said that the costs for the street are high but the developer is giving an additional five acres of land to park when he could use the area for housing.

Steve Kvenvold, City Administrator, said that it would cost approximately \$110,000 to put in one-half of the street along the wooded area. He recognized that there have been changes to the area since 2002 but it was the intention of the Council that the developer pay for the costs of the street along the woodland acreage. There was no assumption that the public would be paying money for the tree area.

Wishing to be heard was Jerry Nelson, Developer of Prairie Crossing. Mr. Nelson asked if the tot lot could be put into the woodland area. Denny Stoltz, Park Department, said if it was either the tot lot being in the wooded area or the payment of \$110,000 by taxpayers, then the tot lot should be relocated.

President Hanson said that Condition #4 should then read: "Parkland dedication shall be met via dedication of 9.3 acres woodland park including a 1 acre tot lot. All street and infrastructure costs abutting the 9.3 woodland are to be paid for by the applicant."

Having no one further wishing to be heard, President Hanson closed the hearing.

Councilmember Marcoux moved, McConnell, adopted Resolution No. 279A-05 approving Amendment to General Development Plan #180 also to be known as Prairie Crossing by Prairie Crossing LLC and Approval of a Substantial Land Alteration Permit with ten conditions, amending Condition #4 as stated earlier, and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law and Order, consistent with the staff's proposed findings, to be brought back to the July 6, 2005, meeting. Ayes (7), Nays (0). Motion carried.

E-13

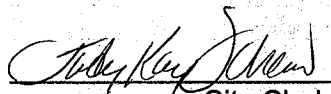
A Hearing on Land Subdivision Permit (Preliminary Plat) #05-14 to be known as Prairie Crossing by Prairie Crossing LLC on property located north of Overland Drive NW, east of TH52 in the Prairie Crossing Special District. This Preliminary Plat replaces Preliminary Plat #02-36 which has expired.

Testimony provided in Item E11 applies to this hearing.

Councilmembers Nowicki moved, McConnell seconded, to approve Land Subdivision Permit (Preliminary Plat) #05-14 to be known as Prairie Crossing by Prairie Crossing LLC with eight conditions, removing Condition #7, and amending Condition #2 to read "Parkland dedication shall be met via dedication of 9.3 acres woodland park including a 1 acre tot lot. All street and infrastructure costs abutting the 9.3 woodland are to be paid for by the applicant", and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law and Order, consistent with the staff's proposed findings, to be brought back to the July 6, 2005, meeting. Ayes (7), Nays (0). Motion carried.

Agenda Item	
	<p>Councilmembers Marcoux moved, Nowicki seconded, to initiate an amendment to the Zoning Map establishing the underlying zones in the Prairie Crossing Special District as B-4 and R-3 and initiate an amendment to the Rochester Urban Service Area Land Use Plan identifying commercial as a B-4 area. Ayes (7), Nays (0). Motion carried.</p>
E-14	<p>See after Item E-6.</p>
E-15	<p>A Hearing on Final Plat #05-21 by Americana Realty, to be known as Traders Point located west of CSAH 8/Bamber Valley Road SW, south of CR25/Salem Road.</p> <p>Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the applicant. He noted that they were in agreement with the two conditions.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers McConnell moved, Nowicki seconded, to adopt Resolution No. 280-05 approving Final Plat #05-21 by Americana Realty, to be known as Traders Point with two conditions. Ayes (7), Nays (0). Motion carried.</p>
E-16	<p>A Hearing on Final Plat #05-22 by Badger Development II LLC to be known as Badger Village Third located north of Portage Street NW, and west of Superior Drive NW.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to adopt Resolution No. 281-05 approving Final Plat #05-22 by Badger Development II LLC with four conditions. Ayes (7), Nays (0). Motion carried.</p>
E-17	<p>A Hearing on Annexation Petition #05-07 by Stanley and Susan Dodge on land located east of TH63, south of 48th Street NE, north of the Viking Hills and Morris Hills North developments.</p> <p>Having no one wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Nowicki moved, McConnell seconded, to approve Annexation Petition #05-07 by Stanley and Susan Dodge and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Amending and Re-Enacting Section 134.23 of the Rochester Code of Ordinances, Relating to Overnight Parking of Vehicles in City-Owned Parking Lots, was given a first reading.</p>
G-2b	<p>An Ordinance Rezoning Approximately 25.03 Acres from the R-1 Zoning District to the B-4 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zone Change Petition #05-04 – East of 50th Avenue N.W., along the north side of 19th Street N.W.)</p>

Agenda Item	
G-2c	An Ordinance Amending the Floodfringe Overlay Zoning District Incorporated Into the Rochester Code of Ordinances, Relating to the Re-Designation of Floodplain Boundaries Associated with Property Located North of 19 th Street N.W., East of 50 th Avenue N.W., was given a first reading. (Zone Change Petition #05-03 – East of 50 th Avenue N.W., along the north side of 19 th Street N.W.)
G-2d	An Ordinance Annexing to the City of Rochester Approximately 34.98 Acres of Land Located in a Part of the Southeast Quarter of Section 13, Township 107 North, Range 14 West, Olmsted County, Minnesota, was given a first reading. (Annexation Petition #05-07 – East of TH63, South of 48 th Street N.E., North of Viking Hills and Morris Hills North developments)
G-3a	An Ordinance Amending and Reenacting Sections 63.262, 63.263, 63.265,b 63.266 and 63.269 of the Rochester Code of Ordinances, Relating to Bufferyard Regulations was given a second reading. Councilmembers moved, seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.
G-3b	An Ordinance Amending and Reenacting Section 60.424, 63.223 and 63.225 of the Rochester Code of Ordinances, Relating to Size and Lighting Restrictions for Signs in the B-5 (Residential Commercial) Zoning District was given a second reading. Councilmembers moved, seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.
G-3c	An Ordinance Creating and Enacting Chapter 45C of the Rochester Code of Ordinances, Relating to the Regulation of Motor Vehicles and Motorized Boats on Public Waters within the City of Rochester was given a second reading. Councilmembers moved, seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.
J-1	Having no further business, Councilmembers moved, seconded, to recess the meeting to June 27, 2005, at 4:15 P.M. Ayes (7), Nays (0). Motion carried.


City Clerk